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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/379,589	08/24/99	ROBERTS	D 1364.1001D5/

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TM11/1020

EXAMINER

VU, V

ART UNIT

PAPER NUMBER

2154

DATE MAILED:

10/20/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/379,589

Applicant(s)

Roberts et al

Examiner

V. Vu

Group Art Unit

2154

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE —3— MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 10-6-00
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 2-92 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 2-28, 31-63, 65-72, 74, 76-78, 80-92 is/are rejected.
- ☒ Claim(s) 29, 30, 64, 73, 75, 79 is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____.

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

Serial No. 09/379,589

DETAILED ACTION

1. This office action responds to applicant's amendment filed 10/6/2000. New claims 83-92 have been added.

Art Rejections:

2. Claims 2-3, 22, 40-41, 43, 62, 71, 76-77 and 81-82 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Fischer, U.S. pat. No. 4,599,644.

Fischer discloses a system for transferring information associated with playback of a recording comprising:

a) a first device (3, fig.2) to reproduce a recording stored in a medium (26, fig. 2) possessed by a user, and to collect use data associated with the recording (see col 4, lines 33-48 and col 5, lines 16-29),

b) means (15, fig. 2) for processing/storing collected use data at the first device (col 4, lines 48-58),

c) a remote second device to receive and evaluate use data, and

d) means (6, fig. 2) for establishing a connection between the first and second devices to transfer the use data from the first device to the second device (see col 4, lines 4-8).

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3. Claims 4-6, 16-19, 27-28, 31-38, 44-47, 54-57, 63, 65-70, 72, 74, 78, 80 and 83-92 are rejected under 35 U.S.C. § 103 as being unpatentable over Fischer in view of Kaplan, U.S. pat. No. 5,963,916.

Fischer's teachings are still applied as discussed above. Fischer does not specifically disclose means for collecting user demographics data during playback of a broadcast program or a recording. Kaplan discloses a home-based computer system capable of collecting user demographics and other use data during the playback/preview of a plurality recording medium including music CDs, movies, etc., (see Kaplan's col 15, lines 54-63).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Fischer with Kaplan's teachings because it would have enabled Fischer to obtain user demographics data for marketing purposes (see Fischer's col 1, lines 30-35).

Kaplan also teaches providing complimentary data based upon user demographics and use data (see Kaplan's col 16, lines 6-18).

4. Claims 7-15, 20-21, 23-26, 39, 42, 48-53 and 58-61 are rejected under 35 U.S.C. § 103 as being unpatentable over Fischer and Kaplan and further in view of Dedrick, U.S. pat. No. 5,710,884.

Neither Fischer nor Kaplan teach monitoring other user activity during user's session, e.g., length, frequency, etc. Such monitoring of user's computer and user's activity for marketing purpose is well-known in the art as disclosed by Dedrick (see Dedrick's col 5, lines 17-67).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify Fischer and Kaplan with Dedrick's teachings of data monitoring because it would have enabled the server to compile a more complete user profile for use by advertisers.

Allowable Subject Matter:

5. Claims 29-30, 64, 73, 75 and 79 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Amendment:

6. Applicant's arguments filed on 10/6/00 are moot in view of new grounds of rejection set forth above.

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Conclusion:

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Viet Vu whose telephone number is (703) 305-9597. The examiner can normally be reached on Monday through Friday from 7:00am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An, can be reached on (703) 305-9678.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-9600.



**VIET D. VU
PRIMARY EXAMINER**

Art Unit 2154
10/18/00